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7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1D 2004 63961

12 DOUGLAS SAYDE, PT

OAH No.

13 1856 Litchfield Avenue
Long Beach, California 90815

A C C U S A T I O N

14 Physical Therapist License No. PT 16947,
15 Respondent.

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17 Complainant alleges:

18 PARTIES

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California (Board).

21 2. On or about September 26, 1990, the Board issued Physical Therapist
22 License Number PT 16947 to Douglas Sayde ("Respondent"). This license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless
24 renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code unless otherwise
28 indicated.

1 4. Section 2660 of the Code states:

2 The board may, after the conduct of appropriate proceedings under the
3 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
4 probationary conditions upon any license, certificate, or approval issued under this chapter for
5 unprofessional conduct that includes, but is not limited to, one or any combination of the
6 following causes:

7 (a) Advertising in violation of Section 17500.

8 (b) Fraud in the procurement of any license under this chapter.

9 (c) Procuring or aiding or offering to procure or aid in criminal abortion.

10 (d) Conviction of a crime which substantially relates to the qualifications,
11 functions, or duties of a physical therapist or physical therapy assistant. The
12 record of conviction or a certified copy thereof shall be conclusive evidence of
13 that conviction.

14 (e) Impersonating or acting as a proxy for an applicant in any examination
15 given under this chapter.

16 (f) Habitual intemperance.

17 (g) Addiction to the excessive use of any habit-forming drug.

18 (h) Gross negligence in his or her practice as a physical therapist or
19 physical therapy assistant.

20 (i) Conviction of a violation of any of the provisions of this chapter or of
21 the State Medical Practice Act, or violating, or attempting to violate, directly or
22 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
23 provision or term of this chapter or of the State Medical Practice Act.

24 (j) The aiding or abetting of any person to violate this chapter or any
25 regulations duly adopted under this chapter.

26 (k) The aiding or abetting of any person to engage in the unlawful practice
27 of physical therapy.

28 (l) The commission of any fraudulent, dishonest, or corrupt act which is

1 substantially related to the qualifications, functions, or duties of a physical
2 therapist or physical therapy assistant.

3 (m) Except for good cause, the knowing failure to protect patients by
4 failing to follow infection control guidelines of the board, thereby risking
5 transmission of blood-borne infectious diseases from licensee to patient, from
6 patient to patient, and from patient to licensee. In administering this subdivision,
7 the board shall consider referencing the standards, regulations, and guidelines of
8 the State Department of Health Services developed pursuant to Section 1250.11 of
9 the Health and Safety Code and the standards, regulations, and guidelines
10 pursuant to the California Occupational Safety and Health Act of 1973 (Part 1
11 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing
12 the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health
13 care settings. As necessary, the board shall consult with the Medical Board of
14 California, the California Board of Podiatric Medicine, the Board of Dental
15 Examiners of California, the Board of Registered Nursing, and the Board of
16 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
17 consistency in the implementation of this subdivision.

18 The board shall seek to ensure that licensees are informed of the
19 responsibility of licensees and others to follow infection control guidelines, and of
20 the most recent scientifically recognized safeguards for minimizing the risk of
21 transmission of blood-borne infectious diseases.

22 (n) The commission of verbal abuse or sexual harassment.

23 5. Section 2239 of the Code states:

24 (a) "The use or prescribing for or administering to himself or herself, of any
25 controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of
26 alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the
27 licensee, or to any other person or to the public, or to the extent that such use impairs the ability
28 of the licensee to practice medicine safely or more than one misdemeanor or any felony involving

1 the use, consumption, or self-administration of any of the substances referred to in this section, or
2 any combination thereof, constitutes unprofessional conduct. The record of the conviction is
3 conclusive evidence of such unprofessional conduct.

4 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere
5 is deemed to be a conviction within the meaning of this section. The Division of Medical
6 Quality may order discipline of the licensee in accordance with Section 2227 or the Division of
7 Licensing may order the denial of the license when the time for appeal has elapsed or the
8 judgment of conviction has been affirmed on appeal or when an order granting probation is made
9 suspending imposition of sentence, irrespective of a subsequent order under the provisions of
10 Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and
11 to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
12 complaint, information or indictment.”

13 6. Section 2661 of the Code states:

14 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge of a felony or of any offense which substantially relates to the qualifications,
16 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
17 this article. The board may order the license suspended or revoked, or may decline to issue a
18 license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed
19 on appeal or when an order granting probation is made suspending the imposition of sentence,
20 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
21 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
22 of guilty, or dismissing the accusation, information, or indictment.”

23 7. Section 2661.5 of the Code states:

24 (a) In any order issued in resolution of a disciplinary proceeding before
25 the board, the board may request the administrative law judge to direct any
26 licensee found guilty of unprofessional conduct to pay to the board a sum not to
27 exceed the actual and reasonable costs of the investigation and prosecution of the
28 case.

1 (b) The costs to be assessed shall be fixed by the administrative law judge
2 and shall not in any event be increased by the board. When the board does not
3 adopt a proposed decision and remands the case to an administrative law judge,
4 the administrative law judge shall not increase the amount of the assessed costs
5 specified in the proposed decision.

6 (c) When the payment directed in an order for payment of costs is not
7 made by the licensee, the board may enforce the order of payment by bringing an
8 action in any appropriate court. This right of enforcement shall be in addition to
9 any other rights the board may have as to any licensee directed to pay costs.

10 (d) In any judicial action for the recovery of costs, proof of the board's
11 decision shall be conclusive proof of the validity of the order of payment and the
12 terms for payment.

13 (e) (1) Except as provided in paragraph (2), the board shall not renew or
14 reinstate the license or approval of any person who has failed to pay all of the
15 costs ordered under this section.

16 (2) Notwithstanding paragraph (1), the board may, in its discretion,
17 conditionally renew or reinstate for a maximum of one year the license or
18 approval of any person who demonstrates financial hardship and who enters into a
19 formal agreement with the board to reimburse the board within that one year
20 period for those unpaid costs.

21 (f) All costs recovered under this section shall be deposited in the
22 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
23 costs are actually recovered or the previous fiscal year, as the board may direct.

24 FIRST CAUSE FOR DISCIPLINE

25 (Prior Conviction of Crime Substantially Related to Practice of Physical Therapy)

26 8. Respondent is subject to disciplinary action under section 2660(d),
27 conviction of a crime substantially related to the practice of physical therapy, in that he operated
28 a motor vehicle while under the influence of alcohol. Respondent's unlawful actions resulted in

1 an accident, which constituted a danger to the public and demonstrated his lack of sound
2 judgment. The circumstances are as follows:

3 9. On or about August 1, 2004, officers heard a loud crash and then observed
4 a vehicle spinning out of control on Orangethorpe Avenue, in the area of Oregon Avenue, in the
5 City of Buena Park. When officers arrived at the location Respondent was found standing next
6 to the open driver's door of the vehicle, which was at rest on the sidewalk. It had apparently hit
7 the hedgerow bushes on the southern property line of 6972 Oregon Avenue before coming to a
8 stop. When asked what had happened, Respondent informed the officers that he must have hit
9 something. Respondent declined needing the assistance of paramedics.

10 10. While speaking to Respondent, officers detected the strong odor of
11 alcohol on his breath, noticed that his speech was slurred and observed that he was having a
12 difficult time standing upright on his own.

13 11. Respondent was asked preliminary investigative questions and given a
14 field sobriety test. He performed poorly. A preliminary alcohol screening test was then
15 administered. It revealed that his blood alcohol content was .163 far above the legal limit.
16 Respondent was placed under arrest and transported to the police station.

17 12. While at the Buena Park Police Station, Respondent submitted to a blood
18 test. Additionally, a records check was conducted. It revealed that Respondent had a prior
19 conviction for driving under the influence. After an appropriate "sobering-up-period"
20 Respondent was released with a citation.

21 13. On or about September 2, 2004, a criminal complaint titled *The People of*
22 *the State of California v. Douglas Anthony Sayde*, Case No. A9594656, was filed against
23 Respondent in Superior Court, County of Orange, North Justice Center. Count 1 charged
24 Respondent with a violation of Vehicle Code section 23152(a), a misdemeanor, driving under the
25 influence of alcohol or drugs. Count 2 charged Respondent with violation of Vehicle Code
26 section 23152(b), a misdemeanor, driving with blood alcohol .08% or more with one prior, a
27 misdemeanor.
28

1 14. On or about September 24, 2004, Respondent entered a plea of guilty to all
2 counts. Respondent's plea was accepted and he was convicted of one count of driving under the
3 influence of alcohol or drugs and one count of driving with blood alcohol .08% or more with
4 one prior.

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6 SECOND CAUSE FOR DISCIPLINE

7 (Prior Multiple Convictions for Driving Under the Influence)

8 15. Respondent is subject to disciplinary action under section 2660(i), 2239
9 [use of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to
10 the licensee, or to any other person or to the public] in that on more than one occasion he
11 operated a motor vehicle while under the influence of alcohol. In at least one such instance, the
12 Respondent's actions resulted in an automobile accident, the occurrence of which presented a
13 danger to himself and to the public. The circumstances are as follows:

14 16. On or about August 28, 2002, a criminal complaint titled *People of the*
15 *State of California v. Douglas Anthony Sayde*, Case No. 2LL07622, was filed against
16 Respondent in Superior Court, Los Angeles County, district of Long Beach. Count 1 charged
17 respondent with a violation of Vehicle Code section 23152(a), a misdemeanor, driving under the
18 influence of alcohol or drugs.

19 17. On or about September 12, 2002, Respondent entered a plea of *nolo*
20 *contendere*. The Court accepted the plea, and found Respondent guilty of Count 1.

21 18. On or about September 2, 2004, a criminal complaint titled *The People of*
22 *the State of California v. Douglas Anthony Sayde*, Case No. A9594656, was filed against
23 Respondent in Superior Court, County of Orange, North Justice Center. Count 1 charged
24 Respondent with a violation of Vehicle Code section 23152(a), a misdemeanor, driving under the
25 influence of alcohol or drugs. Count 2 charged Respondent with violation of Vehicle Code
26 section 23152(b), a misdemeanor, driving with blood alcohol .08% or more with one prior, a
27 misdemeanor.

28 19. On or about September 24, 2004, Respondent entered a plea of guilty to all

1 counts. Respondent admitted to the prior misdemeanor conviction as listed on the charging
2 document. Respondent's plea was accepted and he was convicted of one count of driving under
3 the influence of alcohol or drugs and one count of driving with blood alcohol .08% or more with
4 one prior.

5
6 THIRD CAUSE FOR DISCIPLINE

7 (Dishonest or Corrupt Act)

8 20. Respondent is subject to disciplinary action under section 2660,
9 subdivision (l), of the Code, in that respondent committed dishonest or corrupt act(s)
10 substantially related to the qualifications, functions, or duties of physical therapist by
11 misrepresenting facts related to his background and history to his licensing agency when
12 questioned by the Physical Therapy Board's investigator. The information that Respondent failed
13 to truthfully represent was pertinent to his professional licensure. The circumstances are as
14 follows:

15 21. The Physical Therapy Board of California investigated the arrest and
16 conviction of Mr. Sayde. The investigation revealed that Respondent had a conviction for
17 driving under the influence, which preceded his September 2004 conviction. On or about
18 November 20, 2004, Respondent sent correspondence to Karen Thompsen of the Physical
19 Therapy Board of California, indicating on the face page, that the attachment was a more specific
20 detailed explanation of what occurred on August 1, and should clear up confusion as to two
21 separate arrest incidents. The attached correspondence from Respondent indicates that he had
22 not been arrested on two separate occasions. Respondent made these representations to his
23 licensing agency, despite his 2002 arrest and subsequent 2002 conviction for driving under the
24 influence.

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26 PRAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein
28 alleged, and that following the hearing, the Physical Therapy Board issue a decision:

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1. Revoking or suspending Physical Therapist License Number PT 16947, issued to Douglas Sayde, PT
2. Ordering Douglas Sayde, PT to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: May 15, 2005

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
State of California
Complainant

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Sayde Accusation.wpd